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Dataway, Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

AT&T Corp.

PLAINTIFF,

v.

Dataway, Inc.

DEFENDANT.

CASE NO. C07-02440 EDL

**[PROPOSED] ORDER GRANTING
DEFENDANT'S MOTION FOR
SANCTIONS, AND AWARDED
SANCTIONS**

Dataway, Inc.

COUNTERCLAIMANT

v.

AT&T Corp.

COUNTERDEFENDANT

THE MOTION FOR SANCTION OF DEFENDANT and Counterplaintiff

Dataway, Inc. (hereinafter "Dataway" or "Defendant") came on regular for hearing by the

1 Court, on August 12, 2008, Anne-Leith Matlock, Esq., having appeared for Defendant,
 2 and Timothy Aires, having appeared for Plaintiff AT&T. After hearing the matter having
 3 been submitted to the Court for a ruling, the Court having read and considered the
 4 supporting and opposing memoranda and having heard and considered the arguments of
 5 counsels, and good cause appearing,

6
 7 **IT IS ORDERED** that Defendant's Motion for Sanctions hereby is GRANTED;

8
 9 **IT IS ORDERED** that the Court is going to sanction Plaintiff pursuant to
 10 F.R.C.P. § 37(b)(2)(A) as follows:

- 11 a. Sanctions in the amount of \$ 4,925.00 as determined in ¶ 6 of the
 12 Declaration of Anne-Leith W. Matlock shall be imposed on Plaintiff and
 13 Counterdefendant AT&T;
 14 b. Defendant and Counterplaintiff's allegations in its Counterclaim and
 15 Answer that Plaintiff failed to respond to shall be deemed as admitted
 16 pursuant to F.R.C.P. 8(b)(6) and all defenses that Plaintiff and
 17 Counterdefendant could have raised shall be deemed as waived;
 18 c. Plaintiff shall produce the required documents and/or an adequate
 19 privilege log satisfying procedural rules, in particular identifying the
 20 documents withheld and the parties involved by August 5th, 2008.
 21 d. Until the order is obeyed, proceedings shall be stayed and Dataway's
 22 dispositive filing deadline, currently set for July 1, 2008, shall be
 23 postponed to August 19, 2008.

24
 25 Dated: _____, 2008

26 _____
 27 Honorable Judge
 28 ELIZABETH D. LAPORTE
 United States Magistrate Judge